

## **DEPARTMENT OF THE YOUTH AUTHORITY**

### **STATEMENT OF EMERGENCY**

The Department of the Youth Authority finds that an emergency exists and that the emergency regulation adoption is necessary for the immediate preservation of the public peace, health and safety or general welfare.

For purposes of the Administrative Procedure Act, including section 11349.6 of the Government Code, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare, notwithstanding subdivision (e) of section 11346.1 of the Government Code.

#### **Specific Facts Showing the Need for Immediate Action**

The Department of the Youth Authority has no regulatory standards for the voluntary administration of psychotropic medication to a minor committed to the Department without informed consent from a parent or legal guardian. There is an immediate need for regulatory standards that provide legally acceptable procedures for the voluntary administration of psychotropic medication to a Youth Authority minor who has been diagnosed with a mental health condition, pending court authorization for voluntary psychotropic medication.

The proposed emergency regulation establishes procedures for review and concurrence by a psychiatrist and one other physician that the ward has been diagnosed with a mental health condition and is in need of psychotropic medication. The proposed regulation also includes procedures for the immediate voluntary administration of psychotropic medication upon submission of the Application for Order for Psychotropic Medication-Juvenile (Judicial Council Form JV 220 (1/1/01)) form to the court of commitment. In the event that the court does not authorize the administration of voluntary psychotropic medication, the medication shall be terminated in keeping with medical standards.

The lack of swift court procedures for the voluntary administration of psychotropic medication may jeopardize the health and safety of a Youth Authority ward. On September 30, 2001, a ward under the age of 18, who might have benefited from voluntary psychotropic medication, committed suicide while the Youth Authority was awaiting the court authorization necessary for the administration of voluntary psychotropic medication. Therefore, a ward, under the age of 18, without informed consent from a parent or legal guardian, is unable to receive appropriate psychological intervention in a timely manner and may constitute a danger to self. The time required for the normal regulatory adoption procedures will extend this danger. Therefore emergency regulations are necessary to preserve the health and safety of Youth Authority wards under age 18.

### Authority Citation

Section 1712, Welfare and Institutions Code assigns responsibility to the Department of the Youth Authority to make and enforce all rules appropriate to the proper accomplishment of the functions of the Department.

### Reference Citations

Sections 1001, 1002, 1004, 1752, 1755.3, and 1755.4, Welfare and Institutions Code.

### Informative Digest/Policy Statement Overview

Section 1755.3 of the Welfare and Institutions Code provides that whenever any person under the jurisdiction of the Youth Authority, or any minor under the jurisdiction of the Department of Corrections, is in need of medical, surgical or dental care, the Youth Authority or the Department of Corrections, as applicable, may authorize, upon the recommendation of the attending physician or dentist, as applicable, the performance of that necessary medical, surgical or dental service.

Existing regulations, Title 15, Division 4, Chapter 3, Subchapter 3, Article 1, Sections 4730-4741, reflect the authority of the Youth Authority to authorize medical, surgical or dental care, upon the recommendation of the attending physician, as established in Section 1755.3 of the Welfare and Institutions Code, but do not include voluntary psychotropic medications for wards under the age of 18.

The proposed emergency regulations will provide wards under the age of 18 with access to timely medical intervention, including voluntary psychotropic medication, as determined by two physicians. Emergency regulation adoption is necessary to amend the new Article 1.5 (which is pending approval by the Office of Administrative Law), adding Section 4746.5 to include procedures to immediately administer voluntary psychotropic medication upon the formal request to the court of appropriate jurisdiction.

### Local Mandate and Fiscal Determinations

The Department of the Youth Authority has determined that the proposed regulation does not impose: 1) a mandate on local agencies or school districts, 2) costs or savings to any state agency; 3) costs for which reimbursement is required pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code; 4) other non-discretionary costs or savings upon local agencies; or 5) costs or savings in federal funding to the State.